

## WRRTC MINUTES - DRAFT

### Wisconsin River Rail Transit Commission Full Commission Mtg. – Friday, 5 May 2006 at 10:00 a.m. Dane County Highway Garage, 2302 Fish Hatchery Road, Madison, WI

1. The Chair, Steve Foye, called the meeting at 10:02 am.
2. Commissioners present for all or part of the meeting

Crawford	Tom	Cornford		X
	Phillip	Mueller		
	Ted	Sheckler	2nd Vice Chair	X
Dane	Gene	Gray	1 <sup>st</sup> Treasurer	X
	Jim	Haefs-Flemming		
	Forrest	Van Schwartz		X
Grant	vacant			
	Robert	Scallon		X
	Velma	Weadge		X
Iowa	Charles	Anderson		X
	Steve	Foye	Chair	X
	vacant			
Rock	William	Agnew	1 <sup>st</sup> Secretary	X
	Henry	Brill		X

Ben	Coopman - Alternate			X
	Alan	Sweeney		X
	Joel	Gaalswijk		X
Sauk	Marty	Krueger - Alternate		
	Robert	Sinklair	2 <sup>nd</sup> Treasurer	X
	Larry	Volz		X
Walworth	vacant			
	Richard	Kuhnke	1st Advocate	X
	Allan	Polyock		X
Waukesha	Richard	Manke		X
	Karl	Nilson	1st Vice Chair	X
	Robert	Thelen, II		X
vacant			2 <sup>nd</sup> Secretary	
vacant			2nd Advocate	

**Others present for all or part of the meeting:** Joni Graves (SWWRPC Transportation Planner / WRRTC staff); Jim Matzinger (Dane County CPA / WRRTC staff); Frank Huntington and Roger Larson (WisDOT); Ken Lucht (WSOR); Jeff Wirth (Mazomanie Village President); Dan Viste (Mazomanie business owner); Kim Lamereaux (*News Sickle Arrow*); George Hesselberg (*Wisconsin State Journal*); and Tryg Knutson (office of Senator Erpenbach).

The Chair welcomed new Commissioners Robert Scallon, Grant County; Henry Brill, Ben Coopman, and Alan Sweeney, Rock County; and Allan Polyock, Walworth County. Brief introductions were made.

3. Motion accepting certification of the meeting's Public Notice / Sinklair / Sheckler / Motion passed unanimously.
4. Motion adopting the Agenda, with some reorganization of the order of items / Nilson / Gray / Motion passed unanimously.
5. Motion approving the draft Minutes from the 10 March and 7 April 2006 Executive Committee meetings / Kuhnke / Agnew / Motion passed unanimously.
6. Resolution confirming the actions of the Commission's Executive Committee at its 10 March and 7 April 2006 meetings / Anderson / Cornford / Motion passed unanimously.

## REPORTS & DISCUSSION

### 7. WSOR's Operator's Report for May's WRRTC Meeting – Ken Lucht

Lucht welcomed new members to the Commission and said Bill Gardner sent his regards and wished he would have been at the meeting. Lucht reported that WSOR's MOW crew had been very busy and had hired seasonal workers; in about six weeks, they will be installing continuous welded rail at critical locations to increase safety and efficiency near Hartford and at Orfordville Hill. They hope to do a tie project at Wheeler Pit on the Fox Lake sub (part of the system's backbone to Chicago), replacing ~1000 ties / mile (every 3rd tie). With high fuel prices, several companies have contacted WSOR - even some who are not directly served by rail. There have been inquiries from the ethanol and bio-diesel industry and from several companies, including two that are building storage sheds for grain, the national company 84-Lumber which plans to build a distribution center on the system, and Milk Specialties in Boscobel is upgrading their siding. Lucht responded to questions about a recent derailment and said an inbound train coming into the Janesville yard had a problem; fortunately it was raining and the ground was saturated, which provided a buffer. WSOR worked with the City and DNR and the UP's HazMat team, which was able to vacuum up the pooling diesel fuel; after testing it was determined that nothing had gone into the groundwater. The cause of the derailment was unknown. He also reported that the bridge near Whitewater is back in service; WSOR has modified its recent safety-driven policy requiring belt scales (which cost thousands of dollars) but shippers are required to have loads weighed at the destination and to provide this information to WSOR -- shippers who are overweight will be fined steeply -- a deterrent to protect both safety and infrastructure. Lucht explained that he and Graves have been discussing the best timing for WSOR's annual financial report but it

had not seemed feasible given the lengthy meeting anticipated for May. He extended a special invitation to all Commissioners to attend the June meeting for the 30-minute presentation, rather than waiting until the next Full Commission meeting in August. After a show of hands, it was agreed to plan on having the WSOR financial report in closed session at the June XCom meeting.

**8. WisDOT Report** – Frank Huntington and Roger Larson – *There was no formal report.*

**9. Staff Report & Possible Action Items** – Joni Graves, SWWRPC / WRRTC staff.

Graves provided an update on the status of Commission appointments.

She presented Resolutions recognizing departing Commissioners, and requested Commission action.

**Motion to adopt the Resolutions, as prepared, thanking departing Commissioners for their service / Kuhnke / Sheckler / Motion passed unanimously.**

WRRTC's insurance policy will be up for renewal and would be on the June or July Agenda.

Graves referenced two recent requests -- one for a possible crossing application and the other for a small nature tour, which would cross the ROW.

The April report for [www.wrrtc.com](http://www.wrrtc.com) website use statistics had not been received.

In the past few days, Graves had learned that Senator Kohl's office had submitted the WRRTC / WSOR funding request to the Appropriations Subcommittee. Funding would improve the PDC sub and hope was expressed that the proposal would have the support of the DOT Secretary's office, Governor's office, and Legislators who represent the region.

**FOLLOW-UP** – Graves was asked to provide a new Commission roster.

**10. Financials Reports & Action Items** – Jim Matzinger, Dane County / WRRTC staff.

a) **Treasurer's Report for April 2006** - presentation and discussion. As part of the report, Matzinger provided some background for new members on specific rail projects and on project funding which, in recent years, has been 80% WisDOT, 10% WSOR, and 10% from the member counties across the system. He explained that WRRTC had requested that each of its member counties, and Green County (Pecatonica Rail Transit Commission), allocate \$25,000 for the pending Walworth-Janesville project (as recommended by the joint-RTC cost sharing committee, dubbed the "66-Committee") and \$1,000 towards the Commission's insurance. He said the Hartford-Slinger project had been closed out, and no financial assets remain. As background, he explained that the Evansville project is an earlier project and funds remain for when rail service is resumed; in addition to the Commission's funds, the report also reflects each county's money, if held in reserve. Revenue projections for 2006 include the \$25,000/year lease with WSOR, other leases, interest, and the \$1,000 from each county for insurance; expenses include staff mgt., legal, auditing, and insurance in a break-even budget. **Motion approving the April 2006 Treasurer's Report as presented / Sinklair / Sheckler / Motion passed unanimously.**

b) **Bills received by WRRTC** - presentation and discussion. Matzinger presented bills for \$730.21 Dane County; CKH web hosting \$174.50

**Motion approving payment of the bills, as presented, for \$730.21 Dane County; CKH web hosting \$174.50 / Van Schwartz / Anderson / Motion passed unanimously.**

c) **2006 Rehab Project Funding Update** – WRRTC submitted invoices to each of its counties, and to Green County, for 2006 rail rehab project costs (WRRTC counties would also contribute to the insurance policy).

## **OTHER COMMISSION BUSINESS**

**11. Public Comment / Action Item.**

**Removal / Relocation of Rail Spur in Mazomanie** – the Chair asked that for introductions from guests in attendance, related to this issue: Jeff Wirth (Mazomanie Village President), Dan Viste (Mazomanie business owner), Kim Lamereaux (*News Sickle Arrow* newspaper), and George Hesselberg (*Wisconsin State Journal*); Tryg Knutson (office of Senator Erpenbach) arrived a little later.

Foye explained that the Commission had been working with the Village, in response to a request that the railroad spur in the downtown be removed, as part of the community's plans to create a park, and the requirement by the WRRTC, WSOR, and WisDOT that it be relocated at the Village's expense. He said many issues have been resolved but some remain, including the issue of fencing. Before recognizing Jeff Wirth, he noted that the ROW is

owned by WisDOT, and the Commission is a party to a joint agreement with WisDOT and WSOR.

Wirth provided a handout with a synopsis of the three years of activity related to this project including commitment of a \$250,000 gift from Mr. Westlund for creation of a park, establishment of a Foundation, and donation of an industrial park site where the spur could be relocated. He presented visuals to show the impact of fences 33' from the centerline and referenced sources, including information from the US DOT and the federal Rails-to-Trails program, where public use has co-located within a 33' corridor, depending on speed and volume of rail traffic. He asked WRTC to recommend support for this, and said the 33' fence requirement would take out 50% of the open area and the project would not proceed with that requirement. He suggested the fence be closer than 33' and the remainder of the ROW (out to 33') be used to provide a landscaping buffer. The Village has also contacted Representative Baldwin and Dane County Executive Falk about the new Safe Routes to School program (SR2S), and hopes to receive funding for bike trail improvements to help kids get to school. In addition, the Village has been contacted by a regional artist who would like to donate several works of art for the park. He concluded that all of these projects depend on whether this project moves forward, under a compromise that would ensure safety, and requested the Commission's support.

Discussion followed related to several topics including use of plantings as a barrier/separation, signage, type of fencing, width required for rail maintenance. Dan Viste spoke to the project's history and vision, concluding that he certainly hoped a compromise could be reached that would satisfy all parties.

Foye gave the floor to Vicki Schaefer, WisDOT, who provided a handout summarizing the history of the corridor. She said during the time that the railroad was out of operation in the late 1980s, "excess property" was sold to some communities, including Mazomanie, with WisDOT retaining a 20' easement on what was sold; some of these were later released (including most of the easements in Mazomanie), as part of rehab projects in later years. She also provided photos of encroachments in other communities along the corridor (including Arena, Cross Plains, Black Earth, and Boscobel), noting there were plantings in some pictures but not within the 33' ROW.

At this point, Wirth said none of the photographs showed fences, and countered that the Village would agree to keep its plantings outside the 33' ROW as long as the requirement for a barrier fence be dropped.

Foye asked for comments from WSOR and Lucht said safety is the railroad's greatest concern, noting that WSOR bears all of the liability in the event of an accident and under the agreement it is required to hold WRTC, the counties, and WisDOT harmless. He concluded by asking the WRTC to support requiring a fence beyond the 33' ROW line.

After further discussion, Wirth asked, "What's wrong with our request, which would move the fence closer but use plantings to hold the line to 33'?" Concluding "I'll go for the plantings at 33' and no fence – and leave it be."

Tryg Knutson said he and Senator Erpenbach had been at several meetings related to this project and the 33' was never specifically referenced; he asked why there is a fencing requirement for this project to proceed when there is no fence there now?

Lucht responded that improvements could serve to create an "attractive nuisance" that would bring people to the area, and that the railroad has an obligation to ensure that the ROW is maintained to provide a safe environment.

Wirth said that given the inconsistent ROW through Mazomanie, many buildings and public parking lots are legally within 33'.

Foye concluded the open discussion and requested the Commission to come to some agreement so Graves could send a letter outlining its position, if appropriate. He asked for an opinion from Eileen Brownlee, the Commission's attorney. She explained that since the Commission is party to a lease with the railroad – "a bell that has rang" – the Commission can't re-lease the property to another party, noting that there are insurance requirements in the agreement and the railroad would incur additional liability if the Commission were to do so. She said none of the discussion had addressed first-dollar indemnification or any efforts to take the railroad off the hook for liability. She concluded that beyond the 33' is not the Commission's land and the Commission should take no position on that. Reiterating the liability issues, and the Commission's existing agreement, she said "If someone wants to ignore this advice, and I only give advice, then someone could make a motion to the effect that WisDOT should negotiate with the Village."

Frank Huntington, WisDOT, expressed concerns about whether the Commission should take an active role in supporting or permitting encroachments on the corridor. After a question about whether this was wholly an issue between WisDOT and the Village, Brownlee said WisDOT, the Commission, and the railroad should concur.

**Motion encouraging WisDOT and WSOR to continue to work with the Village of Mazomanie to come to a solution that accommodates the Village's plans, the railroad's concerns, and the integrity of WisDOT's corridor (33' from the centerline on each side) / Nilson / Sheckler / Motion passed with one Nay vote.**

Foye thanked everyone for attending and said he hoped this matter could be settled.

- 12. EWCRC / “66-Committee”** – Van Schwartz, who chairs an advisory committee that includes representatives from three Rail Transit Commissions, provided some background. He explained that the East Wisconsin Counties Rail Consortium (EWCRC) has said it would only fund \$15,000 per county for 2006, and that, given the project’s costs, that would leave an \$80,000 shortfall and may mean leveraging less state money. He recommended that WRRTC not reduce the amount of its contribution from \$25,000, since moving the amount of the request up and down is a problem for the counties, and WRRTC’s requested contribution is in line with the funds allocated by Legislature. He recommended that any amounts allocated by WRRTC, above the \$15,000 allocated by EWCRC, be earmarked ONLY for projects within the WRRTC area, and that WRRTC would only advance \$15,000 per county to shared projects within the EW region. Foye asked if the Commission wished to take action, and Van Schwartz restated this in the form of a Motion.

**Motion that WRRTC fund the 66-Committee projects of work to be determined by all three commissions at an amount equal to EWCRC, and that any amounts collected by WRRTC above that, would be earmarked for use only on WRRTC area projects and that the 2006-2007 projects request stay at \$25,000 / Van Schwartz / Gray / After request for clarification, he added: WRRTC would match EWCRC’s \$15,000 per county but excess money above the equal level of \$15,000 would be retained for projects in WRRTC’s area and we don’t want to change the \$25,000 request made for 2006. If they contribute \$15,000 for a project in their area, WRRTC would contribute only \$15,000 per county. He added, “They have a tremendous need and want to acquire a corridor that's in a condition that's in the shape of the HoChiMinh Trail.” / Motion passed unanimously.**

**13. Results of the Annual Election of WRRTC Officers**

Position	Nominee / County	Motion / Second / Call to Close Nominations / Action
Chair	Steve Foye, Iowa	Nilson / Sheckler / Manke / Motion passed unanimously
1st Vice Chair	Karl Nilson, Waukesha	Manke / Sinklair / Sheckler / Motion passed unanimously.
2nd Vice Chair	Ted Sheckler, Crawford	Nilson / Cornford / Manke / Motion passed unanimously.
1 <sup>st</sup> Secretary	William Agnew, Rock	Kuhnke / Sheckler / Kuhnke / Motion passed unanimously.
2 <sup>nd</sup> Secretary	Velma Weadge, Grant	Nilson / Van Schwartz / Sinklair / Motion passed unanimously.
1 <sup>st</sup> Treasurer	Gene Gray, Dane	Van Schwartz / Sheckler / Agnew / Motion passed unanimously.
2 <sup>nd</sup> Treasurer	Robert Sinklair, Sauk	Nilson / Van Schwartz / Sheckler / Motion passed unanimously.
1 <sup>st</sup> Advocate	Richard Kuhnke, Walworth	Polyock / Cornford / Anderson / Motion passed unanimously.
2 <sup>nd</sup> Advocate	Forrest Van Schwartz, Dane	Gray / Nilson / Anderson / Motion passed unanimously.

**14. In other business ...**

Graves provided copies of an article from *PLANNING Magazine* about efforts by many communities throughout the country to preserve freight rail service.

Foye asked about the status of the removal of rail at Carolina Street and Sinklair said they are proceeding and he provided one set of photos showing the progress.

**15. The meeting adjourned at 12:14 p.m.**